

1
2
3 **IN THE UNITED STATES DISTRICT COURT**
4 **FOR THE DISTRICT OF ARIZONA**

5 IN RE BARD IVC FILTERS
6 PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

7 **FIRST AMENDED MASTER SHORT
8 FORM COMPLAINT FOR DAMAGES
9 FOR INDIVIDUAL CLAIMS**

10 Plaintiff(s) named below, for their Complaint against Defendants named below,
11 incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364).

12 Plaintiff(s) further show the Court as follows:

13 1. Plaintiff/Deceased Party:

14 Melvin Austin

15 2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of
16 consortium claim:

17 Jennifer Austin

18 3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,
19 conservator):

20 N/A

21 4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at
22 the time of implant:

Iowa

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

Iowa

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

Iowa

7. District Court and Division in which venue would be proper absent direct filing:

United States District Court for the Southern District of Iowa

8. Defendants (check Defendants against whom Complaint is made):

☒ C.R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☐ Recovery[®] Vena Cava Filter

☐ G2[®] Vena Cava Filter

1 € G2[®] Express (G2[®]X) Vena Cava Filter

2 € Eclipse[®] Vena Cava Filter

3 € Meridian[®] Vena Cava Filter

4 X Denali[®] Vena Cava Filter

5 X Other: Nitinol Simon Filter

6 11. Date of Implantation as to each product:

7 March 16, 2005 (Nitinol)

8 07/30/2014 (Denali)

9 12. Counts in the Master Complaint brought by Plaintiff(s):

10 ☒ Count I: Strict Products Liability – Manufacturing Defect

11 ☒ Count II: Strict Products Liability – Information Defect (Failure to
12 Warn)

13 ☒ Count III: Strict Products Liability – Design Defect

14 ☒ Count IV: Negligence - Design

15 ☒ Count V: Negligence - Manufacture

16 ☒ Count VI: Negligence – Failure to Recall/Retrofit

17 ☒ Count VII: Negligence – Failure to Warn

18 ☒ Count VIII: Negligent Misrepresentation

19 ☒ Count IX: Negligence *Per Se*

20 ☒ Count X: Breach of Express Warranty

21 ☒ Count XI: Breach of Implied Warranty

22 ☒ Count XII: Fraudulent Misrepresentation

- 1 ☒ Count XIII: Fraudulent Concealment
- 2 ☒ Count XIV: Violations of Applicable _____ (insert state)
- 3 Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade
- 4 Practices
- 5 ☒ Count XV: Loss of Consortium
- 6 ☐ Count XVI: Wrongful Death
- 7 ☐ Count XVII: Survival
- 8 ☒ Punitive Damages
- 9 ☐ Other(s): _____ (please state the facts supporting
- 10 this Count in the space immediately below)

11 _____

12 _____

13 _____

14 _____

15 _____

16 RESPECTFULLY SUBMITTED this 15 day of July, 2016.

17 MCSWEENEY/LANGEVIN LLC

18 By: /s/ David M. Langevin

19 David M. Langevin
20 Rhett A. McSweeney
21 2116 2nd Avenue South
22 Minneapolis, MN 55404
 Attorneys for Plaintiff(s)

CERTIFICATE OF SERVICE

I hereby certify that on this 15 day of July, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

By: /s/ David M. Langevin
Rhett A. McSweeney
David M. Langevin
McSweeney/Langevin LLC
2116 2nd Avenue South
Minneapolis, MN 55404
Phone: (612) 746-4646
Fax: (612) 454-2678